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## REMARKS

### AMENDMENTS

Claim 12 has been amended expressly recite additional technical features as elements of the claim to obviate the outstanding rejection under 35 USC 101. Specifically, the claim now expressly recites that the data is downloaded to a blend processing system, and that the calculation and formulation step recited in b) c) and d) are carried out by a computer. Antecedent basis for these amendments is found on page 7, line 12 and in paragraphs 0024, 0033 and 0037, and additionally in the figures.

### TRAVERSAL OF REJECTIONS

Claims 12-13 have been rejected under 35 USC 101 as being drawn to non-statutory subject matter, the Office Action asserting that the invention is not within the technological arts.

Applicants disagree with the Examiner's interpretation of the present claims, because the claims are directed to providing a specifically usable and useful result, which is a blend output (a term of art referring to a specified instruction that is used to form a blended product). However, to advance the prosecution of the present application independent the claim 12 has been amended to recite the processing devices used to carry out the unique method of the present invention. It is respectfully submitted that this amendment clearly places the claim in condition for satisfying the requirements regarding statutory subject matter.

Claims 12-21 have been rejected under rejected under 35 USC 103(a) as being unpatentable over Gordon in view of Larsen and further in view of Kimle.

The present invention provides a method and a system for producing a blend output for use by a manufacturer to blend component ingredients to form a blended product. This method comprises first downloading, over a network, time-sensitive data

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representing the current cost of at least one material whose price fluctuates based at least in part on market conditions. This downloaded current cost information is used to calculate an actual cost of blending said product, and the difference between the actual blend cost and a model blend cost is automatically calculated. A blend output to form a blended product based at least in part on the calculation is then formulated. This methodology is an abrupt departure from conventional cost analysis, which keeps track of the price paid for the inventory unit being used in a formulation (i.e. in a static manner), rather than incorporating new and projected costs of ingredients to be used in a blended product. See paragraph 0012 of the present specification. The method and system provided by the present invention provides significant advantages, such as listed in paragraph 0019 of the present specification.

Gordon discloses an animal feed ration processing mill having individually controllable ingredient throughputs. The data relative to the ingredients (i.e. analysis data) relates only to static values for each ingredient, such as % protein, % calcium and so on. See column 2, lines 59-62. Further, as recognized in the Office Action, Gordon does not teach a comparing step that includes comparing an actual blend cost and a model blend cost. Thus, the data that is compared in the Gordon system is static data relative to the physical properties of actual ingredients, and Gordon does not contemplate downloading time-sensitive data representing the current cost of at least one material and using this information through a series of calculations to formulate a blended product based at least in part on the calculations. The only aspect of the Gordon system that relates to interactive online analysis is the ingredient flow data of actual addition rates of the ingredients. Thus, the "online analysis" aspect of this system relates only to the measurement of ingredient flow within the mill itself, and not to collection of external data. The Gordon mill system does not track cost at all.

It is noted that Larsen was again recited in the summary of the rejection of the Office Action, but was not discussed in the explanation of the rejection. Nevertheless, this reference will be discussed herein for completeness.

Larsen discloses a system for producing fodder pellets. In this system, the plant is controlled to ensure that pellets are made according to a recipe, wherein nutrient and water content is controlled while also controlling production costs. Column 1, lines 47-

56. The recipe for the pellets is calculated to provide "the cheapest possible composition of the recipe taking into account only the biological values of the raw materials."

Column 3, lines 55-58. Additional ingredient quantity limits are also defined to assure achievement of required physical characteristics of the pellets. While not expressly disclosed in this patent, presumably the cost of the raw materials is a data input for this calculation. This patent fails to disclose or suggest consideration of anything but static cost data for any ingredient. Thus, the Larsen disclosure does not bridge the gap between the Gordon disclosure and the present claims.

It is noted that Haeffner was not recited in the summary of the rejection, but was discussed in the explanation of the rejection. Nevertheless, this reference will be discussed herein for completeness.

Haeffner relates to a process for evaluation of an existing feedstuff to determine whether it needs supplementation, and whether the existing foodstuff can be economically enhanced to satisfy the desired nutritional profile as compared to the cost of existing competing feedstuff. This patent fails to disclose or suggest consideration of anything but static cost data for any ingredient. Thus, the Haeffner disclosure does not bridge the gap between the Gordon disclosure and the present claims.

Kimle discloses a method of facilitating the contracting of agricultural products using the Internet, wherein buyers and sellers are provided with real time information relating to the type and amount of agricultural products available for contract. The system is essentially a listing service of products desired, so that buyers and sellers can identify in real time the quantity and types of agricultural products under contract and available for contract. The system can manage delivery preferences, quality data and determine contract pricing based on these criteria. See the abstract. Thus, Kimle is focused on facilitating transmitting information for enabling contracts of purchase, and has no relation or suggestion regarding adjustments that could be made on the end use of those commodities or in the manufacture of products. The skilled artisan would have had no motivation to revise an information posting system for facilitating contract formation to automatically calculate the difference between said actual blend cost and a model blend cost and to formulate a blend output to form a blended product based at least in part on the calculation.

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None of the references, alone or in combination, suggests the unique use of updated cost information to formulate a blend output, as opposed to using static cost data relative to the actual amount paid for a particular lot of product. The person of ordinary skill would have no motivation from the references of record to utilize downloaded, time-sensitive cost data in such a unique way as presently provided, in order to formulate a blend output based not on static cost, but on calculated costs as described herein.

## CONCLUSION

In view of the amendments and remarks provided herein, Applicants respectfully submit that all of the pending claims are in condition for allowance, and respectfully request notification thereof. In the event that a phone conference between the Examiner and the Applicants' undersigned attorney would help resolve any remaining issues in the application, the Examiner is invited to contact the attorney at (651) 275-9811.

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Respectfully Submitted,

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